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Secta. IX-37—100,000—27-5-53.

Development (1954) Department.

MS SERIES.

G.O. No 728

Dated 16 2-48

[Despatch Abstract.]

LABOUR - Award of the Industrial Tribunal in the disputes between the workers and the management of the Textile Mills in the Province - Lock-out during the period when award is in operation - Held to be illegal.

12513.

Office of the Commissioner of
Labour, Chepauk, Madras,
Dated 17-11-47.

U.O.NOTE.

Subject: LABOUR - Disputes - Dispute between the workers and managements of textile mills in the Province - Award of the Industrial Tribunal - Implementation.

The Government of Madras set up a Court of Enquiry in July ~~1946~~ 1946(with Sri Rao Bahadur Venkataramayya, Retired ~~District~~ District and Seesions Judge) to go into the problems connected with the various working conditions of labour in the textile industry in the Province. The Court of Enquiry was later converted into an Industrial Tribunal under the Industrial Disputes Act of 1947. The repott of the Industrial Tribunal was received some time in July 1947 and the Government, in G.O.No. 3080, Development, dated 15-7-~~47~~ 47 declared the Award to be binding on the managements of the textile mills in the Province and the employees working therein and directed that the award should be in operation for one year from 1st April 1947. Many of the mills in the province have implemented the award, but a few have complained that the increase in wages fixed by the Tribunal was so high that the mills had to work at a loss. Subsequently some of the mills declared their intention of closing down and about six mills have so far actually closed down after due notice to their employees. These closures amount to lockouts and in fact some of the mills have specified in their notice their intention of declaring lockouts.

2. It has been brought to my notice that such lockouts are illegal under Section 23 (c) of the Industrial Disputes Act, This Section provides that no workman shall go on strike in breach of contract, and no employer of any such workman shall declare a lockout "during any period in which a settlement or award is in operation, inrrspect of any of the matters covered by the settlement or award". It seems to me that this view is correct and we can penalise mill-owners who declare lockouts on account of inability or unwillingness to carry out the terms of the Award. It would also appear that the managements would be liable to pay to employees wages at, the rates specified in the award for the entire period the award is in force, viz., till 1st April 1948 even if the mills are closed down.

3. I shall be much obliged if the Legal Secretary would kindly give his opinion in the matter urgently.

Sd. R.M.Sundaram,
Commissioner of Labour.

To

P.V. Balakrishna Ayyar Esq.,I.C.S.,
Secretary to Government,
Legal Department,
Fort St. George, (U.O.)

p.t.o.

U.O.Note 116671-PI/47-3, dated 29-11-47.

Sub: Labour - Disputes - Dispute between the workers and managements of textile mills in the Province - Award of the Industrial Tribunal - Implementation.
Ref: Your U.O.Note dated 17-11-1947.

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I agree with your view that the closure of the Mills referred to in the first paragraph of your U.O.Note amounts to an illegal lockout. The definition of 'lockout' in section 2 (1) of the Industrial Disputes Act is very wide. It will include a lockout or closing down the mill by the employer on the ground that implementation of the award would result in financial loss to him. Section 23(c) prohibits an employer from declaring a lockout during the period when the award is in operation, in respect of any matter covered by the award. Such a lockout is illegal under section 24(1) and is punishable under section 26(2).

As regards the payment of wages to workmen, during the period of the illegal lockout, the position is as follows:-

The Payment of Wages Act cannot be utilised to compel the employer to pay wages during the period of an illegal lockout. In A.I.R. 1941 Bombay 26, the scope of the definition of the term "wages" in the Act was considered and it was held that the term "wages" as used in the Act does not mean potential wages but only wages EARNED. It was observed that the expression "remuneration which would, if the terms of the contract were fulfilled, be payable" in section 2(vi) means no more than remuneration payable on the fulfilment of the contract. Under the Payment of Wages Act therefore, only the wages actually EARNED and that only according to the contract rate, could be claimed. The workman will have therefore to fall back on the general law for claiming damages for the pecuniary loss sustained by him by reason of his being kept out of employment by the illegal lockout.

Sd. x x
Secy. to Government.

To R.M.Sundaram, Esq.,O.B.E.,I.C.S.,
Commissioner of Labour, Madras.

The papers may be recorded in a G.O. for reference in future.

Sd.x.x x x
17/2/48.

G.O.No.728, Development, dated 16-2-1948.
Labour - Award of the Industrial Tribunal in the disputes between the workers and management of the Textile mills in the Province - Lockout during the period when award is in operation - Held to be illegal.

/True copy/

for Superintendent,
Madras Record Office.

PSR. 14-7-53.

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